

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

IN THE MATTER OF:	)	Docket No. HWCA 2008-1627A
	)	
Pacific Trans Environmental Services, Inc.	)	FIRST AMENDMENT TO
1452 North Johnson Avenue	)	
El Cajon, California 92020	)	ENFORCEMENT ORDER
	)	
ID No. CAD981412356	)	
	)	Health and Safety Code.
Respondent.	)	Sections 25187 and 25200.14
	)	

---

INTRODUCTION

The Department of Toxic Substances Control (DTSC) issued an Enforcement Order, Docket No. HWCA 2008-1627, dated 10/10/08, against Pacific Trans Environmental Services, Inc. (Respondent) with regard to Respondent's facility located at 1452 North Johnson Avenue, El Cajon, California, 92020. DTSC hereby issues this First Amendment to Enforcement Order (First Amendment) to Respondent to amend the Enforcement Order as follows:

1. Section 7, Effective Date, is hereby amended to state:

"Effective Date

7. This Order is final and effective fifteen days from the date it is served on Respondent, unless Respondent requests a hearing within the fifteen-day period.

Date of Issuance March 10, 2008

\_\_\_\_\_  
Jose Lara, Supervising Criminal Investigator II  
Department of Toxic Substances Control "

Except as amended by this First Amendment, the provisions of the Enforcement Order shall remain in full force and effect. This First Amendment shall take effect upon the date when this First Amendment is executed by DTSC.

DATE: July 28, 2008

BY: 

\_\_\_\_\_  
Michael Berriesford, Branch Chief  
Office of Criminal Investigations  
Department of Toxic Substances Control

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Pacific Trans Environmental Services  
1452 North Johnson Ave.  
El Cajon, CA 92020

ID No. CAD981412356

Respondent.

Docket HWCA2008-1627

ENFORCEMENT ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Pacific Trans Environmental Services (Respondent).

1.2. Site. Respondent handles hazardous waste at the following site: 1452 N. Johnson Ave. El Cajon, CA 92020 (Site).

1.3. The Department authorized Respondent to manage hazardous waste by hazardous waste transportation number 2831 issued on February 14, 2006.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5. Exhibits. All exhibits attached to this Order are incorporated herein by this

reference.

1.6. Applicable Statutes and Regulations. Copies of the statutes and regulations applicable to this Order are attached as Exhibit A.

#### DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondent violated the Health and Safety Code Section 25201 (a) by receiving approximately 125 lbs. of paint-related hazardous waste between the time-frame: February, 2004 and March, 2006 from off-site generator locations.

#### SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violations, IT IS HEREBY ORDERED THAT:

3.1.1. Immediately, Respondent shall cease accepting hazardous waste from off-site hazardous waste generator locations.

3.2. Submittals. All submittals from a Respondent pursuant to this Order shall be sent simultaneously to:

Chief Investigator  
Mary Locke  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, CA 95812-0806

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be



construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified, or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.7. Liability: Nothing in this Order shall constitute or be construed as a

satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order.

All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### OTHER PROVISIONS



4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

4.5. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, which are attached as Exhibit (N/A).

4.6. Notice of Disposal: Respondent shall, by certified mail, return receipt requested, notify the following persons of violation number (insert number of paragraph alleging disposal):

(List name and addresses of persons to be notified.)

#### PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty



at \$4, 000. Payment is due within 30 days from the effective date of the Order.

Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Chief Investigator  
Mary Locke  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, CA 95812-0806

#### RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

#### EFFECTIVE DATE

7. This Order is final and effective fifteen days from the date it is served on Respondent, unless Respondent requests a hearing within the fifteen-day period.

Date of Issuance 10/10/03



Jose Lara  
Supervising Criminal Investigator II  
Department of Toxic Substances Control

## **ATTACHMENT A**

(4) (A) The loading or unloading of bulk hazardous waste shall be conducted within the hazardous waste facility with a containment device or other system capable of collecting and containing leaks and spills that may reasonably be anticipated to occur during loading and unloading operations until the leaked or spilled material is removed, unless otherwise approved by the department in a regulation or permit.

(B) The department may establish specific secondary containment regulations for bulk transfer areas to effectuate the purposes of subparagraph (A). In addition to, or in lieu of, these regulations, the department may specify secondary containment requirements for bulk transfer areas in individual facility permits. Those regulations and permit conditions shall be designed to allow the practical use of trucks and railcars. The standards may include the use of movable containment devices or other systems meeting this criteria.

(d) For purposes of this section, the following definitions apply:

(1) "Loading" means activities associated with removing packaged or containerized hazardous waste from an authorized unit or removing bulk hazardous waste from an authorized container, tank, or unit within a permitted hazardous waste facility, placing it on a transport vehicle within the facility, and shipping the waste offsite to another location in accordance with this chapter.

(2) "Transport vehicle" means a device, including a trailer, to propel, move or draw hazardous wastes by air, rail, highway, or water that is operated pursuant to the requirements of this chapter.

(3) "Unloading" means activities associated with the receipt of bulk, packaged, or containerized hazardous waste at a permitted hazardous waste facility from an offsite location, by means of a transport vehicle, and placing that packaged or containerized hazardous waste into an authorized unit or placing that bulk hazardous waste into an authorized container, tank, or unit within the facility in accordance with this chapter.

(e) The requirements of this section do not apply to hazardous waste being held or transferred pursuant to subparagraph (B) of paragraph (6) of subdivision (b) of Section 25123.3.

(Amended by Stats. 2003, Ch. 362, Sec. 3. Effective January 1, 2004.)

25201. (a) Except as provided in subdivisions (c) and (d), no owner or operator of a storage facility, treatment facility, transfer facility, resource recovery facility, or disposal site shall accept, treat, store, or dispose of a hazardous waste at the facility, area, or site, unless the owner or operator holds a hazardous waste facilities permit or other grant of authorization from the department to use and operate the facility, area, or site, or the owner or operator is operating under a permit-by-rule pursuant to the department's regulations, or a grant of conditional authorization or conditional exemption pursuant to this chapter.

(b) Except as necessary to comply with Section 25159.18, any person planning to construct a new hazardous waste facility or a new hazardous waste management unit, which would manage RCRA hazardous waste, shall obtain a hazardous waste facilities permit or a permit amendment from the department prior to commencing construction.

(c) A hazardous waste facilities permit is not required for a recycle-only household hazardous waste collection facility operated